

**FOR THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ERICA AUSTIN

v.

**WAL-MART STORES TEXAS, LLC F/K/A
WAL-MART STORES TEXAS, LP D/B/A
WAL-MART SUPERCENTER #3432; AND
WALMART, INC.**

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Civil Action No. _3:21-cv-2920_____

DEFENDANTS' NOTICE OF REMOVAL

I. INTRODUCTION

Pursuant to 28 U.S.C. § 1441, *et seq.*, this civil action is removed from the 298th Judicial District Court of Dallas County, Texas, where this matter was pending under Cause No. DC-21-15001 and styled *Erica Austin v. Wal-Mart Stores Texas, LLC, f/k/a Wal-Mart Stores Texas, LP, d/b/a Wal-Mart Supercenter #3432, and Walmart, Inc.* (the “State Court Action”). Defendants hereby file their Notice of Removal.

II. NATURE OF THE SUIT

This case is a personal injury case in which Plaintiff alleges she was injured when she slipped and fell on a wet substance at one of Defendants’ retail stores. Plaintiff, in her initial state court petition, asserts claims based on negligence under a premises liability theory. Plaintiff seeks monetary relief in an amount “over \$250,000 but not more than \$1,000,000.” *Plaintiff’s Original Petition*, p. 1.

III. TIMELINESS OF REMOVAL

Plaintiff commenced this lawsuit by filing her Original Petition on October 11, 2021. Defendants were served with the Original Petition on or about October 21, 2021, through the

registered agent for Defendants. Defendants hereby file this Notice of Removal. Defendants' removal is timely because it is filed within thirty days after the Defendants were served via a registered agent. 28 U.S.C. § 1446.

IV. BASIS FOR REMOVAL JURISDICTION

Removal is proper under 28 U.S.C. §§ 1441 and 1332(a)(1) because there is complete diversity of citizenship between Plaintiff and Defendants and the amount in controversy exceeds \$75,000.

Plaintiff is a citizen of Texas as evidenced by her admission that she resides in the State of Texas. *See Plaintiff's Original Petition*, p. 1.

The proper Defendant is Wal-Mart Stores Texas, LLC. Wal-Mart Stores Texas, LLC, is now and was at the time of the filing of this action a Delaware Limited Liability Company with its principal place of business in Arkansas. The citizenship of an LLC is the same as the citizenship of all its members. Wal-Mart Real Estate Business Trust is the sole owner of Wal-Mart Stores Texas LLC. Wal-Mart Real Estate Business Trust is a statutory business trust organized under the laws of Delaware with its principal place of business in Arkansas. Wal-Mart Property Co. is the sole owner of Wal-Mart Real Estate Business Trust. Wal-Mart Property Co. is a Delaware corporation with its principal place of business in Arkansas. Wal-Mart Stores East, LP is the sole owner of Wal-Mart Property Co. Wal-Mart Stores East LP is a Delaware Limited Partnership with its principal place of business in Arkansas. WSE Management, LLC is the general partner, and WSE Investment, LLC is the limited partner of Wal-Mart Stores East, LP. WSE Management, LLC and WSE Investment, LLC are both Delaware Limited Liability Companies with their principal place of business in Arkansas. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC. Wal-Mart Stores East, LLC is a limited liability company organized under the laws of the state of Arkansas with

its principal place of business in Arkansas. Wal-Mart Stores, Inc. is the sole owner of Wal-Mart Stores East, LLC. Wal-Mart Stores, Inc. is a Delaware Corporation with its principal place of business in Arkansas. Defendant Wal-Mart Stores Texas, LLC, is now and was at the time of the filing of this action a Delaware Limited Liability Company with its principal place of business in Arkansas.

V. THIS NOTICE IS PROCEDURALLY CORRECT

Defendants have attached to this Notice of Removal the documents required by 28 U.S.C. § 1446(a) and Local Rule 81.1(a)(4) as follows:

- A. Index of all documents that clearly identifies each document and indicates the date the documents was filed in state court;
- B. A copy of the docket sheet in the State Court Action; and
- C. Each document filed in the State Court Action.

This action may be removed to this Court pursuant to 28 U.S.C. § 1441(b), because Plaintiff is a citizen of Texas and no Defendant is a citizen of Texas, the state in which the action was brought. This action is removable to this Court because this United States District Court and Division embraces the place where the State Court Action was pending. 28 U.S.C. §§ 124(c)(6), 1441(a).

In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to all parties and Defendants have provided to the Clerk of the 298th Judicial District Court of Dallas County, Texas, this Notice of Removal.

VI. JURY TRIAL

Plaintiff made a demand for jury trial when she filed her Original Petition on October 11, 2021.

VII. CONCLUSION

Since diversity jurisdiction exists over Plaintiff's claim as set forth herein, Defendants desire and are entitled to remove the lawsuit filed in the 298th Judicial District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division.

WHEREFORE, PREMISES CONSIDERED, Defendants, Wal-Mart Stores Texas, LLC, and Walmart, Inc., pursuant to and in conformance with the statutory requirements, remove this action from the 298th Judicial District Court of Dallas County, Texas, to this Court.

Respectfully submitted,



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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that on the 19th day of November, 2021, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.



STEVEN J. MOSES